S.B.CIVIL TRANSFER PETITION NO.55/2006

Smt. Sangeeta
v/s
Bhawani Shankar

DATE OF ORDER ::: 01.03.2007

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. Niranjan Singh, for the petitioner.
Mr. Ashwini Swami, for the respondent.

- - - - -

Heard learned counsel for the parties.

The petitioner, wife of the respondent, seeking transfer of Divorce Petition, which has been filed by the respondent, pending in the Court of District Judge, Sriganganagar. The petitioner seeking transfer of the case to the Court of Additional District Judge, Deedwana, District Nagaur.

The marriage of petitioner and respondent took place on 12.3.1990 at Deedwana, District Nagaur. The petitioner alleged that since the time of marriage she was harassed by her husband and family members and there was demand of dowry and because of that reason

petitioner was forced to leave with his parents family members. She has no source of income and she is resident of small village. She has no one to help her to attend the court's proceeding at Sriganganagar which is about 400 Kms. from her place of residence. She also stated that one criminal case under Section 498A and 406 IPC lodged by her, which is pending at Deedwana and one petition under Section 125 Cr.P.C. is also pending at Deedwana.

Learned counsel for the respondent submitted that the petitioner has lodged the FIR after filing of Divorce Petition. It has also submitted that as per knowledge of the respondent no petition under Section 125 Cr.P.C. has been filed. It is also submitted that since 1990, the petitioner is residing away from the respondent without any cause. It is also submitted that the case at Sriganganagar can be conducted by the petitioner's brothers, which they are doing.

Learned counsel for the petitioner also relied upon the judgment of this Court delivered in the case of Mrs. Kiran Sharma Vs. Shri Ram Avatar Sharma, 2001 WLC (Raj.) UC 300 wherein this Court on finding that no ground is made out for transfer of petition to the place of lady dismissed the transfer petition. The plea of the lady that she would not be able to conduct

her case at Ajmer by travelling from Jaipur was rejected by this Court.

It is not in dispute that the petitioner is residing at Nagaur in Village Deedwana and according to the respondent she is residing at Deedwana, District Nagaur about 17 years. It is also not in dispute that distance from Deedwana to Sriganganagar where the case is pending is 400 Kms. In these facts and circumstances, it will be appropriate to allow the transfer petition and transfer the case to the Court at Deedwana. The facts of the case of Mrs. Kiran Sharma (supra) are entirely different and cannot be applied to the present facts.

In view of the above, the transfer petition is allowed. The Divorce Petition No. 208/2006 (Bhawani Shankar Vs. Smt. Sangeeta) pending in the court of District Judge, Sriganganagar is hereby withdrawn and is transferred to the Court of Additional District Judge, Deedwana, District Nagar for deciding the same in accordance with law. Both the parties are directed to appear before the Court at Deedwana on 4.4.2007.

Learned counsel for the respondent submitted that the direction may be issued to the Court to give date of petition under Section 125 Cr.P.C. and in

Divorce Petition on same day so that the respondent may not have to travel twice to conduct cases. For this purpose the respondent will be free to make request when dates are given by two Courts which may be considered by both the Courts.

The Court is requested to decide the divorce petition expeditiously.

(PRAKASH TATIA), J.

Rm/